Petition

81-1576

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IN THE

Supreme Court of the United States

TERM,

DOCKET NO.

JOSEPH G. SNISKY, t/a
PANTHER VALLEY COIN EXCHANGE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

I. Where federal agents seized all of petitioner's business records in executing a search warrant at his retail coin outlet, was suppression not required of this unlawful search and seizure?

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IN THE

SUPREME COURT OF THE UNITED STATES

Term,

No.

JOSEPH G. SNISKY, t/a
PANTHER VALLEY COIN EXCHANGE

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petitioner above-named respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Third Circuit entered in this case on November 13, 1981.

OPINION BELOW

The Opinion of the United States Court of Appeals for the Third Circuit, dated November 13, 1981, is not yet reported. A copy of that Opinion is attached hereto as Appendix A.

The Opinion of the United States District Court for the Middle District of Pennsylvania, which was affirmed without discussion by the action of the Court of Appeals for the Third Circuit above noted, is attached hereto at Appendix B.

JURISDICTION

The judgment of the United States Court of Appeals for the Third Circuit (Appendix A, *infra*) was entered on November 13, 1981. A Petition for Rehearing *in Banc* was timely filed and denied on December 9, 1981. (Appendix C, *infra*). On December 14, 1981, upon consideration of Petitioner's Application to Stay the Issuance of the Mandate, the United States Court of Appeals for the Third Circuit entered an Order staying said mandate until January 29, 1982 (Appendix D, *infra*). This Court's jurisdiction is invoked under 28 U.S.C. §1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution:

AMENDMENT IV:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath, or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

Petitioner in this matter is Joseph G. Snisky, trading as Panther Valley Coin Exchange. Petitioner was in-

dicted in the United States District for the Middle District of Pennsylvania as per Criminal Action No. 80-00014-01 on February 11, 1980, which charged him with twenty three (23) Counts of Possession of Counterfeit Coins and two (2) Counts of Possession of altered United States Coins, in violation of 18 United States Code §1341, §485, and §331 respectively.

Prior to trial, the Petitioner filed a Motion to Suppress the Evidence seized by virtue of the execution of a search and seizure warrant at his retail coin outlet, the Panther Valley Coin Exchange, on February 7, 1979. In a Memorandum and Order dated April 18, 1980, and attached hereto as Appendix E, the District Court, the Honorable Richard Conaboy, denied the aforesaid Motion.

A copy of the Search and Seizure Warrant in question is attached hereto as Appendix F.

The Petitioner was tried and convicted of fifteen (15) Counts of Mail Fraud and nine (9) Counts of Possession of Counterfeit Coins. Following trial, post-verdict Motions were denied on April 15, 1981 by Judge Conaboy. The Petitioner was sentenced to a term of three (3) years imprisonment and to fines totaling Nine Thousand Seven Hundred and Fifty ($9,750.00) Dollars.

The Government's theory in this prosecution was that Petitioner, as owner and operator of Panther Valley Coin Exchange, was a coin dealer engaged in an extensive mail order business operation. It was alleged that the Petitioner, using media advertisements, induced customers to purchase coins and then failed to deliver the coins as advertised, particularly with respect to the genuineness of the coins in question. In support of this theory, the Government introduced evidence from the above-referred to search and seizure of the Petitioner's premises.

This evidence was offered to establish that many counterfeit coins and records connected therewith were found in the premises. In addition, the Government offered testimony from witnesses concerning their alleged unsatisfactory purchases of coins from the Petitioner.

The Petitioner appealed the judgment to the United States Court of Appeals for the Third Circuit, which entered its judgment Order denying relief on November 13, 1981. The Court of Appeals also denied a Motion from the Petitioner seeking *in banc*. However, the Court of Appeals did grant the Motion of the Petitioner to stay the issuance of the mandate in this case pending the outcome of the instant Petition.

REASONS FOR GRANTING THE WRIT

I. Where Federal agents, in executing search warrant for alleged counterfeit gold coins and records at petitioner's retail coin outlet, seized all of petitioner's business records, suppression was required of this unlawful general search and seizure.

Attached hereto as Appendix G is the search and seizure warrant which was employed by agents of the Federal Government on February 7, 1979, to search the Panther Valley Coin Exchange operated by your Petitioner. As a result of the execution of this warrant, Federal agents seized 267 gold and 155 other coins plus all of the records of your Petitioner concerning his mail order business.

Although no pre-trial hearing was held on the Petitioner's Motion to Suppress, testimony at trial brought out that the executing officers seized all of the records that they could find in the store, including sales receipts, letters and complaints pertaining to the mail order investigation. The officers took so many documents that it took 1½ days just to photocopy the same so that they could be returned to the Petitioner; the search itself lasted over 4½ hours.

Testimony at the trial showed that the siezure of these records substantially contributed to the Government's ability to prosecute the Petitioner on the mail fraud counts. Postal inspectors testified that the seized records remained with the Secret Service for a period of 1 year following the seizure and that during that time, persons were interviewed based on those records. Secret service agents testified that the purpose of seizing all of these records was to determine other sales of possible counterfeit gold coins by proceeding to contact clients all over the country as appeared in the records. It was not

until one (1) year had elapsed following the search and seizure that the Petitioner was arrested, during which time the Federal agents were able to follow the leads based upon the records in question. Therefore, this improper search and seizure substantially contributed not only to the Petitioner's convictions under §485, but also as to the mail fraud Counts themselves in that the obtaining of witnesses and further evidence was clearly the fruit of the poisonous tree. *Wong Sun v. United States*, 371 U.S. 471 (1963).

An examination of the Affidavit in support of this search warrant clearly indicates that the officers were expecting to find counterfeit gold coins in these premises. Accordingly, they sought authority to seize "various altered and falsified United States coins and counterfeit gold coins *and records concerning their purchase and sale*, in which these coins are known to be altered and counterfeited . . ." This description of the property sought to be seized did not include records concerning the Petitioner's mail order business, and the Affidavit in support of the application for search warrant did not contain such references either. Therefore, the Petitioner submits that not only was the authority to search too broad for the circumstances provided but that the actual execution of the warrant allowed a general search which is prohibited by the United States Constitution Fourth Amendment; see *United States v. Marron*, 275 U.S. 192 (1972).

It is well settled that those who are charged with the execution of a search warrant may not have unfettered discretion in determining what items should be seized. *Vonder Ahe v. Howland*, 508 F.2d 364 (9th Cir. 1974). It is fundamental that a search warrant must be tailored in its statement of authority of items to be seized so that those charged with its execution cannot engage in a gen-

eral search but rather are thereby limited to the seizure of those items which are directly related to the probable cause statements as approved by the issuing authority. *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *United States v. Abrams*, 615 F.2d 541 (1st Cir. 1980); *United States v. Cook*, 657 F.2d 733 (5th Cir. 1981).

In *Vonder Ahe v. Howland*, *supra*, the 9th Circuit disallowed a warrant on grounds of overbreadth where records of a dentist were seized from his office by agents of the Internal Revenue Service based upon a warrant which sought seizure of the Defendant's "fiscal records . . . since 1966". The 9th Circuit Court noted that though there may have been probable cause in the circumstances of that case to search and seize certain records of the Defendant, there certainly was insufficient probable cause to take *all* of his records for that period, as was done.

In *United States v. Abrams*, *supra*, the First Circuit held that the warrant in question in that case violated the Fourth Amendment in a similar fashion. The warrant authorized a seizure of "certain business and billing and medical records of patients" in a medicare fraud investigation. In executing the warrant, the agents seized all of the medicare records of the doctor in question. In resolving this issue, the following was stated by the First Circuit:

> "The warrant at issue fails to meet the requirement of particularity. The officers' discretion was unfettered, there is no limitation as to time, and there is no description as to what specific records are to be seized. As a result of this general description, the executing officers seized all of the Medicare and Medicaid records of the four doctors and, in addition, records of non-Medicare-Medicaid patients. It seems clear that the executing officers could not or

made no attempt to distinguish bona fide records from fraudulent ones so they seized all of them in order that a detailed examination could be made later. This is exactly the kind of investigatory dragnet that the Fourth Amendment was designed to prevent."

The *Abrams* Court rejected the Government's argument that records, like contraband or stolen goods, could be generically described by classification so that further detail or specificity was not required. In this regard, the First Circuit stated the following at page 9:

"Business records, although they may contain evidence of fraud, do not fall into the category of stolen or contraband goods. The Government has cited no case and we have found none in which a seizure of all records was held valid pursuant to a generally worded warrant such as we have here. In the cases we have canvassed where a seizure of records was upheld, there has been some limitation in the warrant as to the records to be seized . . ."

The Constitution requires a search warrant to particularly describe the items to be seized regardless of "any practical difficulty" in so designating the property. The failure of this search warrant to so limit the records to be seized permitted the executing officer to have unfettered discretion in carrying out their assignment, and, as a direct result thereof, the officers did in fact seize all of the business records of the Petitioner whether or not relating to the nature of the case as described in the Affidavit. The agents could not and did not make any attempt to distinguish records properly related to their authorization from those which were to be seized merely for the purpose of allowing a detailed examination at a later time. As stated in *United States v. Abrams*, this was exactly "the kind of investigatory dragnet that the Fourth Amendment was designed to prevent."

Therefore, under all of the circumstances described above, the Petitioner respectfully prays that this Honorable Court grant this Petition and cause the judgment of the District Court as affirmed by the United States Court of Appeals for the Third Circuit to be reversed so that any and all evidence obtained by virtue of the unlawful seizures referred to herein, and any evidence tainted thereby, should be suppressed and other appropriate relief, including a new trial, be provided.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that a Writ of Certiorari should issue to review the judgment and opinion of the United States Court of Appeal for the Third Circuit, which affirmed without discussion a pre-trial Opinion of the United States District Court for the Middle District of Pennsylvania denying the Petitioner's pre-trial Motion to Suppress Evidence. It is clear that this Court should find that the Petitioner's rights under the Fourth Amendment were violated and that a new trial is thereby required.

Respectfully submitted,

/s/ A. Charles Peruto
A. CHARLES PERUTO
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, A. CHARLES PERUTO, Esquire, being duly sworn according to law, depose and say that a true and correct copy of the within Petition For a Writ of Certiorari has been served upon Albert R. Murray, Jr., Esquire, Assistant United States Attorney United States Post Office and Courthouse, Scranton, Pennsylvania 18501.

/s/ A. Charles Peruto
A. CHARLES PERUTO

Appendix

APPENDIX

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 80-2549
No. 81-1840

UNITED STATES OF AMERICA

vs.

JOSEPH G. SNISKY, t/a
PANTHER VALLEY COIN EXCHANGE,

Appellant

(Criminal No. 80-00014—M.D.Pa.—Scranton)

Submitted Under Third Circuit Rule 12(6)
November 12, 1981

BEFORE: SEITZ, Chief Judge, GARTH, Circuit Judge, and CAHN, District Judge.*

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*Edward N. Cahn, Judge of the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

JUDGMENT ORDER

After consideration of the contention raised by appellant, to-wit, that the motion for (1) judgment of acquittal should have been granted as to Counts I, II, IV, VI, VII, VIII, XI, XII, XIV, XV, XVI, XVII, XVIII, XX, XXI, and XXII because the evidence was insufficient to establish that the appellant either intended to defraud or participated in a scheme to defraud as per 18 U.S.C. §1341, (2) judgment of acquittal should have been granted as to Counts XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI and XXXII because the government failed to prove beyond a reasonable doubt that the appellant knowingly possessed counterfeit coins under 18 U.S.C. §485, (3) judgment of acquittal should have been granted as to Counts XXIV, XXV, XXVI, and XXVII because the government failed to prove beyond a reasonable doubt that the appellant's possession of those coins was accompanied by an intent to defraud under 18 U.S.C. §485, (4) judgment of acquittal should have been granted as to Counts XVII and XX because the government failed to prove beyond a reasonable doubt that the appellant caused mailings by these complainants under 18 U.S.C. §1341, (5) new trial should have been granted because the trial judge failed to properly define "knowingly" under 18 U.S.C. §485, (6) new trial should have been granted because the trial judge erred in denying the motion of the appellant for a mistrial after the testimony of Hap Seiders, (7) new trial should have been granted because the trial judge erred in allowing certain testimony over defense objection which unduly prejudiced appellant's right to a fair trial, and (8) new trial should have been granted because the lower court erred in denying the pretrial motion of the appellant to suppress evidence seized at his store on February 7, 1979, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

By the Court,

/s/ Seitz
SEITZ
Chief Judge

ATTEST:

/s/ M. Elizabeth Ferguson
M. ELIZABETH FERGUSON
Chief Deputy Clerk

DATED: November 13, 1981

ORDER DENYING PETITION FOR REHEARING

SUR PETITION FOR REHEARING

Present: SEITZ, Chief Judge, ALDISERT, ADAMS, GIBBONS, HUNTER, WEIS, GARTH, HIGGINBOTHAM, SLOVITER, Circuit Judges, and CAHN, District Judge.*

The petition for rehearing filed by Appellant in the above entitled case having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the Court,
/s/ Seitz
SEITZ
Chief Judge

Dated:

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*Edward N. Cahn, Judge of the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

ORDER STAYING MANDATE

Pursuant to Rule 41(b) of the Federal Rules of Appellate Procedure, it is ORDERED that issuance of the certified judgment in lieu of formal mandate in the above cause be, and it is hereby stayed until January 29, 1982.

/s/ Seitz
SEITZ
Chief Judge

Dated: December 14, 1981

MEMORANDUM AND ORDER DENYING MOTION TO SUPPRESS

(Filed April 18, 1980)

Defendant Joseph G. Snisky was indicted by a Federal Grand Jury in Scranton, Pennsylvania on February 11, 1980, and charged with twenty-three counts of possession of counterfeit coins, and two counts of possession of altered United States coins, in violation of 18 U.S.C. § 1341, 18 U.S.C. § 485 and 18 U.S.C. § 331, respectively. The Defendant was arraigned on February 21, 1980, at which time April 21, 1980 was scheduled as the trial date.

On March 26, 1980, Defendant filed a motion to suppress as evidence in this proceeding any physical evidence obtained as a result of the execution of a search warrant on the premises of Panther Valley Coin Exchange on February 7, 1979. Defendant advances three contentions in support of its motion: (1) that the Search Warrant was constitutionally defective on its face; (2) that the government agents conducted the search in a manner which exceeded the scope permitted in the warrant; and (3) that the facts set forth in the affidavit were based on unreliable, untrue or unreasonable information. Because we find these contentions to be without merit, we will deny the Motion to Suppress.

Defendant first attacks the Search Warrant as being constitutionally defective because it failed to state sufficient facts to establish probable cause for the search.

The decisions of the Supreme Court concerning Fourth Amendment probable-cause requirements before a warrant for either arrest or search can issue require that the judicial officer issuing such a warrant be supplied with sufficient information to support an independent judgment that probable cause exists. *Whiteley v.*

Warden, Wyoming State Penitentiary, 401 U.S. 560, 564 (1970). It is also well established that only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause, *Beck v. Ohio*, 379 U.S. 89, 96 (1964); that affidavits of probable cause are tested by much less rigorous standards than those governing the admissibility of evidence at trial, *McCray v. Illinois*, 386 U.S. 300, 311 (1967); that in judging probable cause issuing magistrates are not to be confined by niggardly limitations or by restrictions on the use of their common sense, *United States v. Ventresca*, 380 U.S. 102, 108 (1965); and that their determinations of probable cause should be paid great deference by reviewing courts, *Jones v. United States*, 362 U.S. 257, 270-271 (1960).

The Magistrate's issuance of the warrant based on the affidavit presented to him in this instance is readily sustainable under these principles.

The affidavit contained information concerning possible criminal activity from three sources: (1) reports of complaints to Postal Inspectors by five purchasers of coins from the Defendant that expert evaluators had determined that coins they had purchased at the Panther Valley Coin Exchange were counterfeit or had been altered; (2) reports of two special agents who purchased coins from Defendant which were determined to be counterfeit; or which had been altered; (3) statement of affiant that he had purchased several coins at the Panther Valley Coin Exchange which were determined to be counterfeit. The information supplied from these sources was corroborative and cumulative, and was sufficient to support a finding of probable cause to search.

Defendant next contends that the warrant was constitutionally defective because it authorized the government to search for items for which probable cause for seizure was not established in the warrant, and that it authorized a general search.

The warrant described the property subject to search and seizure as:

> "various altered and falsified U.S. Coins and counterfeit gold coins and records concerning their purchase and sale, in which these coins are known to be altered and counterfeit . . ."

The constitutional standard for particularity of description in a search warrant is met if the description is sufficiently definite so as to enable the officer with the warrant to reasonably ascertain and identify the place to be searched and the objects to be seized. *Steele v. U.S.*, 267 U.S. 498, 503-504 (1925). Accordingly, the degree of specificity required is flexible and may vary depending on the circumstances and the type of items involved. *U.S. v. Muckenthaler*, 584 F.2d 240, 245 (8th Cir., 1978).

In this instance, the warrant was as specific as possible under the circumstances. Courts have approved warrants which list only the general class or type of item to be seized where there was substantial evidence to support the belief that the class of contraband was on the premises and in practical terms the goods to be seized could not be precisely described. See *Montilla Records of Puerto Rico v. Morales*, 575 F.2d 324, 326 (1st. Cir. 1978).

There was substantial evidence presented to the magistrate in this case to support a belief that there were counterfeit and altered coins in this coin shop. The description in the warrant of the class of coins involved and the records needed was as specific as possible, in view of the fact that expert evaluation would be necessary to actually determine the quality of any coin seized. Therefore, it is this Court's finding that the warrant itself was not Constitutionally defective.

The Defendant next objects to the search itself on the ground that it was carried out in a manner which exceeded the scope permitted in the warrant. A search is not rendered unconstitutional because the agents seize some items not specifically listed in the search warrant, and the fact that they may have done so is not grounds to suppress all the evidence seized. See *U.S. v. Forsythe*, 560 F.2d 1127 (3d Cir., 1977); *Andresen v. Maryland*, 427 U.S. 463, 482 n.11 (1976). As long as an item appears at the time of the search, to contain evidence reasonably related to the purposes of the search, there is no reason—absent some other Fourth Amendment violation—not to seize it. *Warden v. Hayden*, 307 U.S. 294, 307 (1967).

Given the nature of the items described in this case and the fact that expert evaluation would be necessary to determine their quality, the fact that some genuine coins may have been seized does not invalidate the search. Such would be returned to Defendant.

Defendant further contends that his personal papers were wrongfully searched for and seized. The warrant called for the search and seizure of records concerning the purchase and sale of altered and counterfeited coins. The fact that these records may have been contained in a volume which contained other information does not make their seizure improper or objectionable in this case. See *United States v. Buesch*, 596 F.2d 871 (9th Cir. 1979).

The final objection raised here is that the facts set forth in the Affidavit for Search Warrant are based upon unreliable, untrue or unreasonable information. Challenges to the validity of the affidavit upon which a warrant is issued will be considered by the Courts when the Defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with

reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to a finding of probable cause. *Franks v. Delaware*, 438 U.S. 154, 155 (1978). Defendant here makes a bare allegation that such false statements were made, but does not point out what statements in the affidavit are allegedly false, and show that they were necessary to the finding of probable cause. Therefore, this challenge is not sufficient to attack the validity of the warrant.

Since it is this Court's finding that the search warrant was validly issued, and that the search conducted was within the scope of that authorized by the Warrant, the Motion to Suppress the physical evidence seized from Panther Valley Coin Exchange will be denied.

/s/ Richard P. Conaboy
RICHARD P. CONABOY
United States District Judge

Dated: April 18, 1980

ORDER

NOW, THIS 18th day of April, 1980, the motion of the Defendant to suppress physical evidence will be, and is hereby denied.

/s/Richard P. Conaboy
RICHARD P. CONABOY
United States District Judge

AFFIDAVIT FOR SEARCH WARRANT

BEFORE Joseph G. Quinn Scranton, Pa.

The undersigned being duly sworn deposes and says:

That he has reason to believe that (on the premises known as) Panther Valley Coin Exchange, Church Hill Mall, Intersection of Routes 309 & 940, Hazleton, Pa., run by Joseph Snisky. The store is in the mall, has a flat roof, cinderblock walls, glass front, with large sliding glass doors. The store faces the parking lot. It is located between the Rea & Derrick Drugstore and Optometrist James McAvoy. It is directly across from a former refreshment stand in the mall, which is being partly used to sell organs. The store sells coins, appliances and childrens toys. The store is one main room with showcases, two or more large safes and a small office in the back.

In the Middle District of Pennsylvania there is now being concealed certain property, namely various altered and falsified U.S. Coins and counterfeit gold coins and records concerning their purchase and sale, in which these coins are known to be altered and counterfeited in violation of 18 USC, Section 331 and 485.

And that the facts tending to establish the foregoing grounds for issuance of a Search Warrant are as follows: PI Richard McGee received a complaint from David H. Hop, Lot 16, Orchard St., LeMars, Iowa, 51031, advising that he had responded to a mail bid circular received from Panther Valley Coin Exchange, Hazleton, Pa.

Mr. Hop bid in and was awarded the right to purchase:

One—1916D Mercury Dime
One—1921P Liberty Half Dollar
One—1921D Liberty Half Dollar

On 11/18/78, he received the coins and determined that the 1921P Liberty Half Dollar had been altered by changing the "O" to a "1." The 1921D Liberty Half Dollar had been altered by having the "D" punched through the coin.

He sent the 1916D Dime to the American Numismatic Association Verification Service and, after examination, they determined the "D" had been added.

Dr. Everett Schutz, 1005 Eden Isle Drive, St. Petersburg, Florida, has complained to PI McGee that on or about 12/5/78, in response to an advertisement by Panther Valley Coin Exchange, Hazleton, Pa., he purchased five rare $10 U.S. gold coins. After receiving them, he took them to two experts, who advised the coins were counterfeit.

On 12/5/78, PI Richard McGee, Harrisburg, acting in an undercover capacity, purchased a 2½ dollar, 1912 Indian Head gold coin from Joe Snisky, Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa., paying $76.32.

On 12/15/78, Thomas Jurcich, Supervisor-Chemist, Bureau of the Mint, advised the subject gold coin was counterfeit.

On 12/7/78, Bob Russell, Box 230, Childress, Texas, advised PI McGee that on or about 11/2/78, he purchased a 1916D Mercury Dime from Panther Valley Coin Exchange, Hazleton, Pa. He subsequently sent the Dime to the American Numismatic Association Verification Service, and they determined the coin had been altered by adding the mint mark "D."

On 12/7/78, SA Hartman, Philadelphia Field Office, advised that he just received a phone call from Harley G. Miller that he had returned $6,000 in counterfeit $5 and

$10 U. S. gold pieces to Joseph Snisky, Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa.

On 12/9/78, Harley Miller was interviewed in New York. He advised that he is an American citizen living in Germany, and in May 1978 and in response to an ad, he purchased, through the mail, $6,000 in $5 and $10 gold pieces from Joseph Snisky, Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa. He received them in July 1978. He received the coins and took them to a German Bank, which certified they were counterfeit.

He stated he called Joe Snisky and advised him the coins were counterfeit. Snisky promised to make them good, but never did.

On Thursday, 11/30/78, Miller came to the United States and went to Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa., and confronted Joe Snisky and returned the gold coins. He was repaid $2,923.00 in cash and the rest in coins. Snisky told Miller he got the $5 gold pieces in Harrisburg, Pa.

Miller, who is a coin dealer, also saw three (3) 1909S VDB Pennies, which he felt were counterfeit at the store.

On 12/13/78, Arnold Glover, Route 4, Box 198A, Benton, Arkansas, advised PI Richard McGee that in reply to advertising by the Panther Valley Coin Exchange, Hazleton, Pa., he ordered six (6) rare U.S. gold coins through the mail. The coins were:

One—$5 Indian
Two—$5 Liberties
Two—$2.50 Liberties
One—$10 Indian

After receiving the coins, he had them examined by experts, who determined them to be counterfeit.

In the evening of 12/20/78, the writer went to Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa. I was surveilled by SA Yocum.

I talked with an employee, who directed me to Joe Snisky. Snisky showed me three gold coins, two U. S. $2½ gold pieces and a $5 gold piece. He advised that they were all good quality coins. I purchased a 1911 $2½ Indian Head gold piece from Snisky for $75, plus $4.50 tax, for a total of $79.50.

On 1/10/79, Thomas Jurcich, Supervisor-Chemist, Bureau of the Mint, advised the subject coin was counterfeit.

On 12/28/78, SA Yocum, acting in an undercover capacity, went to Panther Valley Coin Echange, Church Hill Mall, Hazelton, Pa., and from an employee of the shop purchased a 1913 $2½ U. S. Indian Head gold coin, paying $90, no tax or receipt.

On 1/2/79, Jim Brown, Counterfeit Division, U.S. Secret Service, stated that Mint has advised that they have examined the coin and found it to be counterfeit.

On 2/1/79, SA Yocum, acting in an undercover capacity, went to the Panther Valley Coin Exchange, Church Hill Mall, Hazleton, Pa., and from a male employee that he had previously dealt with on 12/28/78, purchased a $.01 Penny, dated 1909S, VDB for $130.00. He was instructed by the seller that it was a rare coin and should be kept in a safe.

On 2/5/79, Jim Brown, Counterfeit Division, U.S. Secret Service, advised that the above coin has been inspected by the Bureau of the Mint and found to be genuine, with the mint mark altered.